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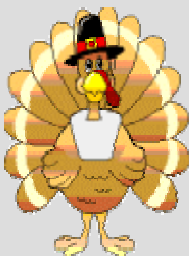
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## License Renewal Time

Renewal forms have been mailed out to licensees who need to renew in 2007. To ensure your license renewal application gets processed in a timely manner, here are some helpful hints:

**Deadline reminder: Renewal applications are due in the office NO LATER than November 30. This is NOT a postmark deadline.** Renewals must be in the commission office on or before the 30<sup>th</sup> or a late fee will be assessed. Renewals received on or after December 1<sup>st</sup> will be returned for a late fee.

**Incomplete renewal forms:** All questions on this form must be answered or your application will be returned. Please note that answering "N/A" (not applicable) to a YES/NO question is not acceptable and will result in your application being returned to you. Also, don't forget to sign the application form.

**Correct fee must accompany the application.** Every year, the Commission office returns renewal forms because the licensee forgets to include a check for the renewal fee or the fee submitted is incorrect.

**Errors & Omissions Insurance.** The Commission-offered E&O Insurance plan for 2007 is administered through Rice Insurance Co. Enrollment forms for this coverage are also due by November 30. Licensees who have policies with other providers are responsible for providing the Commission office with proof of coverage. Licenses cannot be renewed on active status without proof of insurance. NOTE: The Commission-offered E&O policy is a personal policy. People that have more than one license (i.e. auctioneer & broker associate) only need to pay ONE premium.

**Extra fees for additional/branch office licenses.** Licensees that have additional licenses for branch or alternate offices must include an extra \$30 for each extra license. Failure to do so will result in the application being returned.

**Inactive licenses must also be renewed.** Don't forget – licenses on inactive status must also be renewed. Renewing the license is what keeps it from expiring altogether.

**Continuing education must be completed.** Licenses cannot be issued on active status unless all continuing education requirements are met and the records are on file with the Commission office. As a reminder, course providers have 10 days after a given course to submit the attendance information. **Taking classes at the last minute is highly discouraged! Licensees who wait to complete their education hours in December are not guaranteed an active license on January 1.** The best way to avoid the risk of having an inactive license on January 1 is to complete the continuing education requirements now!

Questions regarding renewals can be directed to the Commission office at (605) 773-3600.



## A Letter From the Chairman

How quickly time flies...I feel as though Karen had just stopped hassling me for the August newsletter.

The fall caravan has recently wrapped up. I hope those of you who took advantage of it found it educational and worth your time. Please be sure to provide any feedback to Karen at [karen.callahan@state.sd.us](mailto:karen.callahan@state.sd.us). The only way we can improve the caravan or continue doing something correctly is by your feedback, whether positive or whether you have suggestions for topics, meeting places, materials, etc. This could also pertain to items that you would like to see mentioned in this column.

Since our last newsletter, most of the commission members had the opportunity to attend the national ARELLO conference in New York City. For those of you who are not familiar with ARELLO, it is the acronym for the Association of Real Estate License Law Officials. It is an international organization where regulating bodies (i.e. state, provincial, etc) get together to speak and discuss trends in the real estate industry. More so, it is a way for us to share items relating to real estate that some other regulator may have already had experience with, such as tenants in common (TICS) and condotels. Our overall goal is to protect the integrity of the real estate industry. It was a great conference and I feel the staff and members who were able to attend came back with some additional insight. It is great to see that conventional mortgage rates continue to remain low, in fact, dropping slightly over the last several weeks. In addition, SDHDA has lowered their rates for the First Time Homebuyer program. Hopefully the continued affordability of homes on the market will encourage those wanting to purchase a first home,

or those who want to move up from their starter home, to begin or continue to look. We all know that the winter months can slow things down a bit, but with the number of listings that most areas are seeing and the low mortgage rates, it would be great to see some interest during this time of year.

Lastly, in order to keep this column short, please remember that your renewals are due by November 30, 2007. Please be sure to mail your renewal early to ensure that it can be processed in a timely manner. If you have any questions about your license, please call the Commission office at 605-773-3600.

Brian



## From the Director's Desk

Once again, renewal is upon us. Earlier this month, the licensing program sent out 2,664 renewal applications. Of those, 1,652 need to meet continuing education requirements in order to remain on active status on January 1, 2008. In addition, 2,287 errors and omissions insurance renewal forms were mailed to those licensees covered by the group plan.

Please keep in mind that if you have an active license expiring on December 31, 2007 and fail to complete your continuing education and/or fail to have errors and omissions insurance covering you on January 1, 2008, your license will be placed on inactive status. This means you are not allowed to engage in any activities requiring licensure by this agency. To do so, constitutes a Class 1 Misdemeanor and potential disciplinary action by the Commission.

Last year, there were several responsible brokers who had to take over listings for associates who were

placed on inactive status because the associates did not have current licenses displayed. In addition, several licensees were surprised to find they no longer had access to the MLS. Don't let this happen to you. And the best way to not let this happen is to submit your license renewal application with continuing education completed, along with your errors and omissions insurance form by the November 30<sup>th</sup> deadline. This will ensure your having a license displayed in your office to continue doing business.

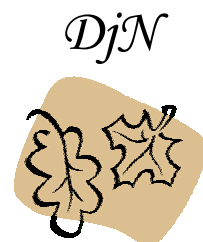
The Commission received another letter from Representative Deb Peters who chairs the Government Operations and Audit Committee (GOAC). This letter requested the Commission's input on potential legislation that would either reduce the Commission's Recovery Fund to \$15,000 or completely eliminate it.

The Recovery Fund is currently set in statute to be maintained at \$100,000 and is kept separate from Commission operating funds. Its purpose is to provide compensation to the public for losses when harmed by a real estate licensee in a real estate transaction. The public can only submit a claim to the Recovery Fund after exhausting all other options provided by the courts.

Since 1977, the maximum liability per licensee is \$15,000. The Commission does not support the elimination of the Recovery Fund and is concerned that the \$15,000 maximum liability may be too low for current day standards.

At GOAC's October meeting, Representative Peters told the committee she still wants to move forward with proposing legislation to either eliminate or reduce the balance of the Recovery Fund.

Thanksgiving is fast approaching and I'd like to wish you all a wonderful day.





## In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensee who recently passed away:

Sheryn Just, Maryville, IL  
formerly of Rapid City

## Address Updates

The SDREC office often has mail returned due to old address information. It is extremely important that licensees notify the SDREC office of changes in address, especially those licensees who are on inactive status. Active licensees and firms must file a Change of Address/Association form with the Commission office within 10 days. This form is available on the website at [www.state.sd.us/sdrec](http://www.state.sd.us/sdrec) under "Forms and Supplemental Guides". Inactive licensees may email home address updates to [Norma.Schilling@state.sd.us](mailto:Norma.Schilling@state.sd.us).

## Consequences of Failing to Comply with the Renewal Requirements

Last January, the SDREC office mailed notices out to over 130 responsible brokers informing them they had active agents who failed to complete the renewal requirements to keep their licenses on active status.

So what happens to an agent in this situation? First, the responsible broker is notified. Second, all of the agent's listings and clients must be transferred to the broker or another active licensee in the office. Third, the name of the agent is given to the local Association office so MLS access can be immediately discontinued. And most importantly, the agent can be subject to disciplinary action by the Commission if he or she is conducting business without an active license. This is also a Class I misdemeanor.

If the responsible broker or property manager does not meet the renewal requirements, the entire office is put on inactive status until the requirements are met.

Don't let this happen to you! Brokers – be aware of your agents' license status to avoid any unwanted surprises on January 1<sup>st</sup>!

## Real Estate News from Around the U.S.

(Used with permission from ARELLO)

### WA Court: "Possible Use" Ad Not Misrepresentation

A Washington appellate court has issued an unpublished decision holding that a real estate listing advertisement describing possible uses of a property does not constitute misrepresentation. The advertisement stated "Count the possibilities, 5 bedrooms in two side by side homes - Mother-in-law? Rental?...". The buyers sued after they discovered that the "possible uses" may require alterations to meet zoning requirements. The court held that "Because the real estate listing noted "possibilities" for the property and had question marks after the words "mother-in-law" and "rental," it was clear that there was no promise that the second building could be rented as it was. In order to make the stated possibility a reality, some expense would not be unexpected."

### HUD "DPA" Rule Disputed

The U.S. Department of Housing and Urban Development has finalized its downpayment assistance (DPA) rule, closing a loophole by which some charitable organizations have allegedly circumvented federal seller-funding restrictions by providing downpayment "gifts" to homebuyers. According to HUD, such "gift funds" are sometimes replenished by a purportedly tax-deductible "charitable donation" made by the seller and often involve an artificial inflation of the sale price of the home, harming both the borrower and FHA. The new rule takes effect on October 31 and allows bona fide charitable contributions in transactions involving FHA insured mortgages, but prohibits downpayment assistance from the seller, anyone who financially benefits from the transaction

or a third-party who is reimbursed for a contribution. Meanwhile, DPA providers AmeriDream, Inc. and Nehemiah Corporation of America both immediately announced the filing of federal lawsuits to block the rule. U.S. Representatives Maxine Waters (D-California), Gary Miller (R-California) and Al Green (D-Texas) jointly issued a press release decrying the new rule, arguing that it improperly eliminates legitimate DPA programs. FHA reform legislation pending in Congress currently contains provisions that would permit the types of downpayment assistance that are prohibited by the new HUD rule.

## South Dakota Real Estate VIEW

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221 West Capitol Ave., Suite 101  
Pierre, South Dakota 57501

Telephone: 605-773-3600  
Facsimile: 605-773-4356  
Website: [www.state.sd.us/sdrec](http://www.state.sd.us/sdrec)  
E-mail: [dr.ralestate@state.sd.us](mailto:dr.ralestate@state.sd.us)

Editor-in-Chief: Dee Jones  
Noordermeer  
Editor: Karen Callahan

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Angela Madsen, Auditor ..... Sioux Falls

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

## HUD South Dakota Website

(Used with permission from HUD)

Did you know each HUD field office has a web site dedicated to their area of jurisdiction? The HUD in South Dakota web site offers information specific to our customers in South Dakota. The web site has information about homebuying programs specific to your area, homeless resources for your community and a host of other information. Want to see where HUD resources are being used in South Dakota or just want to read about a successful program? Check out the slide show on the front page.

Navigating the site is easy. On the left of the screen are the main headings, Click on what you're interested in, homeownership, rental help, homeless or any of the other headings to get local information about HUD programs and partners who make the programs work.

Watch for good stories on the front page or visit the archives to read about good things in South Dakota. If you would like to contribute a good story or have comments or suggestions about the web site, call us at 605-330-4223 or e-mail [sd\\_webmanager@hud.gov](mailto:sd_webmanager@hud.gov).

The web site is easy to remember [www.hud.gov/southdakota](http://www.hud.gov/southdakota).

## Continuing Education Corner

By Karen Callahan, Education Director

By now, it's not hard to figure out that the general "theme" of this newsletter is license renewals, or more importantly, *timely* license renewals.

Since many of the renewal inquiries to the SDREC office concern the continuing education requirements, here are answers to many of the frequent questions:

**Can I take all of my continuing education hours on-line?** Yes! There is no limit to the number of hours that may be taken through distance learning (internet).

**How do I know what courses I have on file with the SDREC office?**

Licensees may log on to the SDREC website to view the education records on file. Go to [www.state.sd.us/sdrec](http://www.state.sd.us/sdrec) and click on the "Licensees Only" section. Follow

the log in directions to view your education records.

**How often do I have to take an Ethics course?**

The SDREC does not require licensees to take ethics or any other specific course. The Ethics course requirement is part of membership in the SD Association of REALTORS®. Members with questions on this requirement should contact their local board office.

**Do I need to send copies of my course certificates in with my renewal?**

No. The course sponsor is required to report this information to the SDREC office. Exception: if a licensee attends a classroom course given in another state, copies of the completion certificates must be submitted to receive continuing education credit.

**If I have more hours than I need for renewal, will the extra hours be carried over into the next licensing period?**

No.

**I have an appraiser's license – will my appraisal hours count toward my real estate license education requirements?**

Not necessarily. Since the SDREC and the Appraiser Certification Program are two separate and distinct offices, courses are not automatically approved for both license types. Course providers must apply for approval to the SDREC office for real estate CE credit, regardless of whether that course is already approved for appraisal hours. Persons with both real estate and appraiser licenses should not assume that a course is approved by both offices. If in doubt about course approval, contact the SDREC office at 773-3600.

**I need hours – what courses are coming up?**

A list of the approved courses is posted on the SDREC website. Log on to [www.state.sd.us/sdrec](http://www.state.sd.us/sdrec) - click on "Education" and the courses are listed according to method: classroom, distance learning and independent study. This list is updated weekly so new courses will appear soon after they are added to the schedule.



**The SDREC office will be closed  
on Monday, November 12  
in observance of Veterans Day**

## Disciplinary Action

The following disciplinary actions have become effective since the last report in the newsletter. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

**Dan McCann, Rapid City, Broker Associate.** Findings of Fact, Conclusions of Law, and Order. It is ordered that McCann be required to pay a penalty in the amount of \$500 and reimburse the Commission for expenses related to the proceeding in the amount of \$1334.49.

Violation of SDCL 36-21A-71(1), (15), (32); ARSD 20:69:04:08.01, ARSD 20:69:04:08.03 and ARSD 20:69:04:29. McCann's actions as school administrator for the Black Hills School of Real Estate constitute unprofessional conduct by allowing an unapproved speaker to instruct pre-licensing students. McCann's actions constitute incompetence by failing to meet his obligation on behalf of the institution to obtain approval of a guest speaker.

**Janet Van Nuys, Rapid City, Broker Associate.** Findings of Fact, Conclusions of Law, and Order. It is ordered that Van Nuys be required to pay a penalty in the amount of \$500 and reimburse the Commission for expenses related to the proceeding in the amount of \$1334.49.

Violation of SDCL 36-21A-71(1), (32). Van Nuys' actions as instructor for the Black Hills School of Real Estate constitute unprofessional conduct by failing to ensure a guest speaker had the requisite approval to make a presentation in her class.

**Ken Smith, Rapid City, Broker Associate.** Findings of Fact, Conclusions of Law, and Order. It is ordered that Smith be required to pay a penalty in the amount of \$500, reimburse the Commission for expenses related to the proceeding in the amount of \$2668.97 and obtain 3 hours of continuing education in the area of ethics.

Violation of SDCL 36-21A-71(1), (32). Smith's actions constitute unprofessional conduct by presenting proprietary and confidential information to pre-licensing students, thereby jeopardizing the integrity of the licensing examination process.



**Patrick Donahue, Rapid City, Broker and United Country/Western Properties.** Findings of Fact, Conclusions of Law, and Order. It is ordered that Donahue's and United Country/Western Properties' licenses be suspended for one year and that Donahue pay a monetary penalty of \$2500 and all costs of the hearing within 30 days. It is further ordered that if the monetary penalty and costs have not been paid following the one-year suspension, Mr. Donahue's license cannot be activated.

Violation of SDCL 36-21A-71(3), (15), (31) and (32). Donahue's actions constitute unprofessional conduct by making substantial and willful misrepresentations to the Commission in order to be granted a license by reciprocity when, in fact, Donahue is a legal resident of South Dakota.

**Jeanne Donahue, Rapid City, Salesperson.** Findings of Fact, Conclusions of Law, and Order. It is ordered that Donahue's license be suspended and that she be required to complete the 40-hour broker course in South Dakota and pass the broker examination should she decide to activate her license.

Violation of SDCL 36-21A-71(3), (15), (31) and (32). Donahue's actions constitute unprofessional conduct by making substantial and willful misrepresentations to the Commission in order to be granted a license by reciprocity when, in fact, Donahue is a legal resident of South Dakota.

**Jeb Hughes, Spearfish, Broker Associate.** Findings of Fact, Conclusions of Law, and Order. It is ordered that Hughes' license be suspended and that he be required to complete the 100-hour pre-licensing course in South Dakota and pass the broker examination after which his license may be activated upon written request from a South Dakota broker.

Violation of SDCL 36-21A-71(3), (15), (31) and (32). Hughes' actions constitute unprofessional conduct by making substantial and willful misrepresentations to the Commission in order to be granted a license by reciprocity when, in fact, Hughes is a legal resident of South Dakota.

## New Licensees

The South Dakota Real Estate Commission would like to welcome the following new licensees.

### Auctioneer

Ostby, Derek R – New Effington

### Broker Associate

Andrew, Peter M – Aberdeen  
Bachmeier, Scott R – Brookings  
Bahr, Kenna – Aberdeen  
Bence, Terry L – Sioux Falls  
Blumer, Gregory C – Yankton  
Bradley, Michelle M – Sturgis  
Calvert, Jessica T – Hartford  
Cantalope, Collin G – Sioux Falls  
Epstein, Barry D – Castle Rock, CO  
Fahrendorf, Eric M – Sioux Falls  
Grunewaldt, Kevin J – Brookings  
Hanson, Bryan – Ft. Pierre  
Hanson, Jeanne B – Sioux Falls  
Hoch, Lukas – Deadwood  
Hofmeyer, Carman M – Sioux Falls  
Johnson, Wayne A – Yankton  
Kitzman, Michelle M – Tea  
Klein, Matt C – Lead  
Kleinsasser, Tiffany J – Sioux Falls  
Kuipers, Reggie M – Sioux Falls  
Maes, Eloy J – Black Hawk  
McNeese, Lori A – Belle Fourche  
Messner, Gary E – Rapid City  
Nelson, Stacey J – Rapid City  
Powers, Sr., Patrick D – Brookings  
Reichert, Stacy – Rapid City  
Sorensen, Shane A – Flandreau  
Stearns, Scott A – Tea  
Strande, Dustin – Sioux Falls  
Whitebird, Robert A – Pierre  
Wielocha, Pawek B – Sioux Falls

### Residential Rental Agent

Caraway, Karen K – Sioux Falls  
Gevik, Kristen E – Sioux Falls  
Janssen, Virginia A – Brandon  
Koepsell, Loren G – Sioux Falls  
Liston, Lisa M – Sioux Falls  
Stark, Nancy – Sioux Falls  
Stephens, Heather L – Tea  
Thompson, Sven-Eric – Sioux Falls

### Salesperson

Bousquet, Dawn D – South Sioux City, NE  
Braunger, Beau – Sioux City, IA  
Cote, Emily – Sioux City, IA  
Daly, Gerard M – Papillion, NE  
Darsow, Barry A – Maple Grove, MN  
Davis, Kimberli K – Sioux City, IA  
Goldberg, Fred W – Eden Prairie, MN  
Goodell, Brian K – Lake Park, IA  
Hansen, Lois L – Pipestone, MN  
Henslin, Allen J – Bird Island, MN  
Henslin, LaDon D – Bird Island, MN  
Norgaard, Michael S – Tyler, MN  
Robinson, Patricia D – Lawton, IA  
Wikstrom, Sarah – South Sioux City, NE

### Broker

Bong, Eroll M – Fargo, ND  
Davis, Orvil L – Rapid City  
Dygas, Dorothy A – Belle Fourche  
Ginsberg, Bennett A – Omaha, NE  
Hoth, Dennis J – Omaha, NE  
Knutson, Larry G – Willmar, MN  
Kraft, Richard F – Duluth, MN  
Ortman, Richard L – Milford, IA  
Robinson, Christine B – Valentine, NE  
Seger, Mark S – Omaha, NE  
Wagner-Manthe, Lisa – Merrill, IA

**The SDREC Office will be closed November 22-23 in observance of Thanksgiving.**



# APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 East Capitol, Pierre, SD 57501, 605-773-4608



**Sherry Bren,  
Executive  
Director  
(605)  
773-4608  
445 E. Capitol  
Pierre, SD 57501**

## Appraiser Certification Program Mission – Purpose – Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

## Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Dept. of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. [www.state.sd.us/appraisers](http://www.state.sd.us/appraisers)

## USPAP Q & A

Vol. 9, No. 8, August 2007

### Requirement for Signing Reports

Question: What is the USPAP requirement regarding signing a report?

### Signing Digital (Electronic) Reports

Question: What is the USPAP requirement for signing a digitally created (electronic) report?

### Changing the Certification

Question: Must the certification be exactly the same as that presented in USPAP? May an appraiser add items to the certification?

### Competency Statement in the Report

Question: Does USPAP require an appraiser to include a "competency statement" in all reports?

Vol. 9, No. 9, September 2007

### Signature Authorization

Question: Can I authorize someone else to sign an appraisal report for me, using my signature? If so, could you identify what steps I must take to do this correctly?

### Authentication of an Appraiser's Digital Signature

Question: Is an appraiser required to use software or other means that allows for the user to authenticate or verify the validity of the appraiser's digital signature?

### Approving the Use of Your Digital Signature

Question: I am in a situation where I need to authorize someone to apply my digital signature for me. This would require me to reveal my current Personal Identification Number (PIN) or password to that person. If I approve this use of my digital signature have I given up "sole personal control?"

### Providing Signature to Create a Signature File

Question: I am a residential appraiser and I use software to generate

my appraisal reports. The software company requires me to provide a copy of my signature to create an electronic signature file for use with the software. Under USPAP does this represent giving up "sole personal control" of my signature and violate USPAP?

### Losing Control of a Digital Signature

Question: If my digital signature is stolen, am I in violation of USPAP for failing to have "sole personal control" of my signature?

### Client Altering the Report

When I transmit my residential form report electronically I have heard that some of my clients are opening the appraisal file and removing my signature file, reformatting the data, and in other ways altering my appraisal report for the client's use. What are my responsibilities under USPAP if I know of believe such actions are occurring after my report is delivered to the client?

Answers to the above questions can be found at: [www.appraisalfoundation.org](http://www.appraisalfoundation.org).

[For further information regarding USPAP Q&As contact The Appraisal Foundation at: [www.appraisalfoundation.org](http://www.appraisalfoundation.org)]

## Deadline Fast Approaching for Upgrades

December 31, 2007 is the deadline for submitting an upgrade application for state-licensed, state-certified residential or state-certified general appraiser under the current education requirements. Please contact the Appraiser Certification Program office to obtain information for upgrade to a higher appraiser classification.

## **New Licensees – Aug./Sept. 2007**

Thomas B. Young, State-Registered –  
Rapid City

Richard A. Schuttler, State-Registered  
– Rapid City

Matt A. Downing, State-Certified  
Residential – Sioux City, IA

Steven R. Duncan, State-Certified  
General – St. Cloud, MN

Meow H. Tan, State-Certified  
Residential – Thornton, CO

Loy D. Matthes, State-Certified  
General – Eaton, CO

Eric E. Christenson, State-Certified  
Residential – Bloomington, MN

Christopher W. Fried, State-  
Registered – Mobridge

Samuel J. Berg, State-Certified  
Residential – Kalispell, MT

Brett D. Thompson, State-Certified  
General – Chicago, IL

Brian L. Adkins, State-Certified  
General – Harrisonville, MO

## **Key Changes to the Administrative Rules Regarding Appraisers Effective Sept. 11, 2007**

An appraiser on inactive status who wishes to return to active status must submit a written request along with evidence of successful completion of the continuing education hours that would have been required if the appraiser was on an active status. [ARSD 20:14:03:06]

Registration of a supervisor is effective the day the registration form is received by the secretary. Appraisal experience credit for an assignment requiring a supervisor will be granted if the supervisor is registered with the secretary at the time of the assignment. The state-registered appraiser shall report, in writing, to the secretary any change of supervisor. The change shall be effective upon receipt by the secretary. [ARSD 20:14:04:12.01]

A supervising appraiser must be in good standing with the department. [ARSD 20:14:04:13]

If a state-certified general, state-certified residential, or state-licensed appraiser moves to the state and holds a valid certificate, in

good standing issued by the appraiser's previous state of domicile, the secretary may issue an equivalent certificate or license to the appraiser if the appraiser submits the required application and fees, and certifies that disciplinary proceedings are not pending against the applicant in any jurisdiction. [ARSD 20:14:05:01.01]

If an applicant fails to successfully complete the National Uniform Appraiser Examination within the time limit of 24 months from the date of approval the applicant must submit another application and pay the application fees. [ARSD 20:14:05:02.00]

An applicant for state-certified residential appraiser must, at a minimum, submit two small income producing property appraisal reports that include all three approaches to value. [ARSD 20:14:05:03.01]

An applicant for state-certified general appraiser must, at a minimum, submit two nonresidential appraisal reports that include all three approaches to value. [ARSD 20:14:05:04]

The continuing education requirement is not required if the following conditions are met:

\* A state-registered appraiser's certificate was issued in the previous 12 months beginning on or after October 1 of the previous even-numbered year and before September 30 of the current odd-numbered year.

\* A state-certified general, state-certified residential, or state-licensed appraiser's certificate was issued in the previous 185 days before September 30 of the current odd-numbered year. This applies to first-time applicants only and not to applicants that have been issued an upgrade of a license or certificate. [ARSD 20:14:13:01.01]

Distance education courses intended for use as qualifying education must include a written examination proctored by an official approved by the college or university, or by the sponsoring organization. [ARSD 20:14:13:05.04]

The Administrative Rules of SD regarding appraisers are available at the Program's Website at [www.state.sd.us/appraisers](http://www.state.sd.us/appraisers) or by contacting the Dept. of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Ave., Pierre, SD 57501, telephone 605.773.4608, or FAX 605.773.5369.

## **Information Regarding Disciplinary Actions**

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Dept. of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, SD 57501 or e-mail – [Sherry.Bren@state.sd.us](mailto:Sherry.Bren@state.sd.us). Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03)

## **SD DIV. OF BANKING IMPLEMENTS NEW REGULATIONS FOR MORTGAGE LENDERS BROKERS, & LOAN ORIGINATORS**

Bret Afdahl, Counsel to the Division of  
Banking, (605) 773-3421

The mortgage lending industry in South Dakota is now subject to more regulation as a result of the passage of Senate Bill 165. On July 1, 2007, SB 165 took effect and is codified as SDCL 54-14-12 through 54-14-33 (The Act).

The Act provides definitions of mortgage lenders, mortgage brokers, mortgage brokering activities, mortgage loan originators, and mortgage lending activities. Each mortgage lender and mortgage broker must apply for licensure and each mortgage loan originator working for a licensed lender or broker must be registered with the Division.

The Act also requires each applicant for licensure and registration to undergo a background investigation conducted by the SD Division of Criminal Investigation (DCI) and the Federal Bureau of Investigation (FBI). Each person who applies for a license must provide proof of at least two years experience working for a lender or broker licensed in South Dakota. Any applicant for licensure will be required to submit proof of a surety bond in favor of the state in the amount of \$25,000.

The Act goes on to provide authority for the Division to conduct examinations on all licensees in addition to the authority to suspend or revoke any license based upon specified grounds. The exemptions from licensure contained in SDCL 54-14-4 were carried forward into The Act, which include banks and bank subsidiaries, bank holding companies, trust companies, licensed real estate brokers, and insurance companies.

The Division adopted the following rules to implement and administer SB 165:

- ARSD 20:07:19:02 and 20:07:19:03 set the new license and renewal fees for mortgage lenders, brokers, and loan originators. For lenders the new license fee is \$750 and the renewal fee is \$500. Brokers will pay \$500 for a new license and \$350 for a license renewal. Loan originators will pay \$150 for their initial registration and \$75 for the annual registration. ARSD 20:07:19:03 also establishes a twenty percent late fee for renewal applications filed after December first, but before January first of any given year.
- ARSD 20:07:19:04 and 20:07:19:05 establish the information that must be provided in the application process for a license or registration as well as the

grounds for denial of an application.

- The process for complying with the background investigation requirement is set out in ARSD 20:07:19:06. Two fingerprint cards will be provided to each applicant or for each control person for an applicant and each set of cards must be completed by law enforcement and then submitted with a check in the amount of \$39.25 payable to the South Dakota Division of Criminal Investigation. This cost will include both the DCI investigation as well as the investigation conducted by the FBI.

- ARSD 20:07:19:08 and 20:07:19:09 put into rule the records that must be kept by licensees for the purpose of examination by the Division. The Division may conduct examinations on each licensee on an annual basis, or more often if necessary. The rules also provide for self-examinations to be conducted by licensees for years in which the Division does not conduct an examination of a licensee.

- All new applicants for licensure must provide proof of at least two years of experience in the industry. ARSD 20:07:19:10 establishes what will constitute satisfactory proof of such experience. An applicant for a license must provide either a

W-2, 1099, 1120, 1120S, or 1065 tax return that shows that the applicant was employed in the industry for the required two year period. In addition, the applicant must provide a signed letter from the lender or broker who employed the applicant that identifies the applicant's job duties and verifies that the individual performed those duties in a competent manner.

- Continuing education requirements were established in ARSD 20:07:19:11 which will require each mortgage lender, broker and loan originator to successfully complete at least 9 hours of continuing education each year. Classes must be offered by an entity that has been approved by the Division and certified by the approved organization. To date the Division has approved two nine hour training courses, each offered by a separate national training organization. The Division will continue to review additional training providers and courses as they are submitted.

If you have questions about The Act, the Division's rules, or would like more information, please visit the Division's website at: <http://www.state.sd.us/drr2/reg/bank/BANK-HOM.htm> or contact us at (605) 773-3421.

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SD Real Estate Commission  
221 W Capitol Ave, Suite 101  
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